

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

RICHARD JAMES BUCKNELL, #1277904	§	
VS.	§	CIVIL ACTION NO. 4:10cv184
		CONSOLIDATED WITH
DIRECTOR, TDCJ-CID	§	CIVIL ACTION NO. 4:10cv216

ORDER OF DISMISSAL

Petitioner Richard James Bucknell, an inmate confined in the Texas prison system, filed the above-styled and numbered petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The cause of action was referred to United States Magistrate Judge Don D. Bush who issued a Report and Recommendation concluding that the petition should be denied. The Petitioner has filed objections.

The Report of the Magistrate Judge, which contains his proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Petitioner to the Report, the court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Petitioner are without merit.

It is specifically noted that the Petitioner complained in his objections that the court had not ruled on his motion to waive the exhaustion requirement. The Fifth Circuit found on appeal that he had exhausted his state court remedies and that the Respondent had waived the issue. The matter was resolved on appeal and there was no basis for further examining the issue.

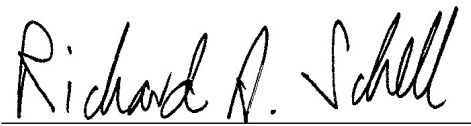
The Petitioner also renewed his complaint that his trial attorney was ineffective for failing to object to the state trial court's failure to conduct an Article 38.072 hearing. The Report and Recommendation fully discussed why there was no need for such a hearing; thus, counsel did not have a meritorious basis for objecting. Therefore, the court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the court. It is accordingly

ORDERED that the petition for a writ of habeas corpus is **DISMISSED** with prejudice as moot. It is further

ORDERED that a certificate of appealability is **DENIED**. It is finally

ORDERED that all motions by either party not previously ruled on are hereby **DENIED**.

SIGNED this the 21st day of August, 2013.

A handwritten signature in black ink, reading "Richard A. Schell". The signature is written in a cursive, flowing style. The first name "Richard" is written with a large, prominent "R". The middle initial "A." is written in a smaller, more compact script. The last name "Schell" is written with a large, prominent "S". The signature is positioned above a horizontal line.

RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE